

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

**BERNICE ROUNDTREE, Individually
and on behalf of the Estate of
CHARLES ROUNDTREE, JR. and the
Statutory Beneficiaries, TAYLOR SIN-
GLETON and DAVANTE SNOWDEN,**

Plaintiffs,

v.

No. SA-18-CV-01117-JKP-ESC

**CITY OF SAN ANTONIO, TEXAS;
STEVE CASANOVA,**

Defendants.


**ORDER CONVERTING MOTION TO DISMISS
TO MOTION FOR SUMMARY JUDGMENT**

Before the Court is *Defendants Casanova's and City of San Antonio's Motion to Dismiss Plaintiff's Fourth Amended Complaint Pursuant to Fed. R. Civ. P. 12 (b)(1), (2), (6) and (7), and (c) or, in the Alternative, Motion to Abate* (ECF No. 178).

“If, on a motion under Rule 12(b)(6) or 12(c), matters outside the pleadings are presented to and not excluded by the court, the motion must be treated as one for summary judgment under Rule 56.” Fed. R. Civ. P. 12(d). “[W]hen a district court converts a Rule 12(b)(6) motion into a motion for summary judgment, the court must comply strictly with Rule 56’s notice requirements.” *Snider v. L-3 Commc'ns Vertex Aerospace, L.L.C.*, 946 F.3d 660, 667 (5th Cir. 2019). The Fifth Circuit has held that parties must have ten days to submit additional evidence once they are put on “fair notice” that a court will treat a Rule 12(b)(6) motion as one for summary judgment. *Id.*

Because Defendants have attached evidence to the motion to dismiss that will be considered by the Court, the parties are advised that the Court is converting the motion to dismiss to a motion for summary judgment. Accordingly, it is **ORDERED** the parties may file any additional material in support of their respective positions on or before **February 7, 2022**. Specifically, the parties should address Diajhanae Williams and minor K.W.'s relationship to Charles Rountree Jr. and point to evidence that (1) supports their arguments about these relationships; (2) provides any basis for joining or not joining these individuals in the lawsuit.

It is so ORDERED this 28th day of January 2022.


JASON PULLIAM
UNITED STATES DISTRICT JUDGE